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Attny Dkt. No. 100302.0031US1

Claim Rejections

35 USC § 102

Claims 1 and 9 were rejected as being anticipated by Miller (U.S. Patent 5479339). The applicant disagrees for the following reasons.

Miller teaches signals from an evapotranspiration sensing device that indicate that a pre- selected amount of water relative to tall fescue has been lost to evapotranspiration. (See column 2, lines 61-64). Miller goes on to describe that "control logic converts the signal into...current weather data. (See column 2, lines 65-68). The "control logic uses the current weather data table to determine a quantity of water to apply at a station" (See column 3, lines 8-9). Further, if the amount of water to be used for the predetermined period exceeds a predetermined budget amount, a groundskeeper or operator is alerted. (See column 3, lines 15-26). Miller also teaches that the historical weather data is useful for establishing water needs when the current data is unavailable (See column 3, lines 13-15).

> Miller fails to disclose "a microprocessor that is programmed to...generate a warning signal if the current weather data varies from the historical weather data by at least a given amount <u>indicative of a measurement malfunction</u>"

Independent claim 1 (and all dependent claims by virtue of their dependence on claim 1) recites a warning signal that is indicative of a measurement malfunction. The evapotranspiration sensing device in Miller is relied upon to be accurate since the operator is making decisions based on the readings: i) the alert in Miller "serves to encourage the operator to take water off at least one station, in order to maintain a budget" (See column 3, lines 23-25); and ii) [T]he "control logic uses the current weather data table to determine a quantity of water to apply at a station" (See column 3, lines 8-9). The device would not be relied upon to make decisions about watering if the data was being used to indicate a malfunction. Thus, Miller does not disclose each and every limitation of claim 1 and therefore it does not anticipate claims 1-14.

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35 USC § 103

§ 103(c)

The Office has advised applicant that pursuant to 37 CFR 1.56 the applicant is required to point out the inventor and invention dates for each claim that was not commonly owned at the time a later invention was made.

The applicant responds by pointing out that each claim was commonly owned at the time the invention was filed and continues to be commonly owned.

§ 103(a)

Claims 2-8 and 10-14 were rejected as being obvious over Miller (U.S. Patent 5479339). The applicant disagrees for the following reasons.

Claims 2-8 and 10-14 depend upon independent claim 1. As stated above, independent claim 1 recites "a microprocessor that is programmed to...generate a warning signal if the current weather data varies from the historical weather data by at least a given amount <u>indicative of a measurement malfunction</u>". There is no teaching or suggestion in Miller that would lead one of ordinary skill in the art to modify the reference to include the requirement that a warning signal be generated if the variance is indicative of a measurement malfunction.

Miller teaches away from generating a warning in response to a measurement malfunction by teaching reliance upon the evapotranspiration sensing device. Reliance upon the device is evidenced by the fact that changes to watering amounts are made based on the readings from the device.

Based on the non-obviousness of claim 1, and the dependency of claims 2-14, claims 1-14 are not obvious over Miller.